Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* With due respect to you, Sir, I express my inability, my undesirability, and my unwillingness to serve on the Committee.

Mr. P. Govinda Menon (*Ernakulam*): Why not you fight within the Committee?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* There are Hon'ble Members here who know me. It is only open fight that I want.

Mr. P. A. Mohamad Ashrof (*Cranganur*): I also decline to serve on the Committee.

Mr. P. V. Sebastian *(Latin-Christians Cranganur):* I also decline to serve on the Committee.

Panel Chairman: So the Select Committee will consist of.—

(1) The Prime Minister.
(2) The Chief Secretary to Goverment.
(3) The Advocate-General.
(4) Mr. P. Govinda Menon.
(5) Mr. K. T. Achyutan.
(6) Mr. P. C. Varkey.
(7) Mr. P. Narayana Menon and
(8) Mr. K. S. Panicker.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I move that it may be added by the addition of the Hon'ble Member from Mulakunnathukavu also.

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government):* Mr. K. Raghavan also.

Panel Chairman: Two more members have been suggested, Messrs. M. K. Raja and K. A. Raghavan. The Select Committee is to submit its report within three months. The Prime Minister will be the Chairman of the Committee.

Mr P. Kumaran Ezhuthassan *(Vadakkancheri):* Before the Hon'ble Chair pronounces the time-limit; I move or rather I suggest or I request that it may be reported upon by Friday, the day after tomorrow as we did with regard to the Taxation Bill.

Mr. P. Govinda Menon *(Ernakulam):* I move that the report may be received on a Friday within three months. *(Laughter).*

Mr. P Kumaran Ezhuthassan *(Vadakkancheri):* We must know whether we are to be burned by this Act or whether this Act is to be burned, that is the seriousness of the Act, that is the feeling of the public of Cochin. This is not to be played like this. I did not think that such observations will be made by such a responsible friend of mine. You will be noted or you will be thrashed to be noted. *(Laughter).*

Mr. M. Sivarama Menon *(Constitutional Adviser):* Sir, considering the various pros and cons of this Bill, I think that it will be very difficult even within these three months for me, to submit a report.

Mr. Panel Chairman: Considering the vehemence with which he has opposed this Bill, I think he must consider himself happy that the longer the report is postponed, the better for him.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I appreciate the observation, but oppose the idea.

മിസ്റ്റർ കെ. കെ. കണ്ണൻ: ഇതു് നിയമസഭയുടെ അവസാനതീരുമാനമായതുകൊണ്ടു് എനിക്കിതിനെക്കുറിച്ചു് രണ്ടു വാക്കു പറയേണ്ടതുണ്ടു്.

Panel Chairman: The Bill is not before the House now; it has been disposed of.

മിസ്റ്റർ കെ. കെ. കണ്ണൻ: നിയമസഭയുടെ ഈ തീരുമാനത്തെ പ്രതിഷേധിച്ചുകൊണ്ടു് ഞാൻ അഞ്ചുമിനിട്ടുസമയം സഭാനടപടികളിൽ പങ്കുകൊള്ളാതെ ഇറങ്ങിപ്പോകുന്നു.

(2) The Cochin Industrial Disputes Bill

Mr. P. Raman Menon *(Advoate-General):* I rise to move in the absence of the Hon'ble Minister for Food and Education that the Cochin Industrial Disputes Bill be read in Council.

Mr. M. Sivarama Menon *(Constitutional Adviser):* I second the motion.

Mr. P. Raman Menon *(Advoate-General):* The Bill is intended to supersede the rules framed under the Defence of India Rules on the basis of the existing Trade Disputes Act for the purpose of adjudicating trade disputes and it is also intended to supersede the Trade Disputes Act itself. It is in fact an amplification of the Trade Disputes Act and generally follows the lines adopted by the British Industrial Disputes Act which was passed in 1947. The proviso,

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Mr. P. Raman Menon]
the Conciliation, the Court of Enquiry, Adjudication and all the constituted forms which can be adopted with advantage for this purpose.

മിസ്റ്റർ എം. ഒ. തോമക്കുട്ടി. സർ, ഈ ബിൽ കൂലങ്കഷമായി പരിശോധിച്ചുനോക്കിയതിൽ ഇതു നടപ്പിൽ വരുത്താൻ പാടില്ല; അതുകൊണ്ട് ഇതു് സെലക്ട് കമ്മറിക്കു് അയക്കാൻ പാടില്ലെന്നു് മാത്രമല്ല ഇത്തരം ഒരു ബിൽ ഇപ്പോൾ ആവശ്യമില്ലാത്തതുകൊണ്ട് ഇതിനെ ആലോചനാവിഷയമായി എടുക്കേണ്ടതില്ലെന്നു ഞാൻ അഭിപ്രായപ്പെടുന്നു. ഇന്നു നിലവിലുള്ള വ്യവസായങ്ങൾ ഒന്നുംതന്നെ വേണ്ടവിധത്തിൽ നടത്തിക്കൊണ്ടുപോകുവാൻ സാദ്ധ്യമാക്കുന്നതല്ലെന്നുമാത്രമല്ല, മേലിലും യാതൊരു വ്യവസായങ്ങളും ഉണ്ടാക്കുന്നതിനുള്ള പ്രോത്സാഹനങ്ങളെ തടയുക്കമാത്രമാണ് ഇതുകൊണ്ടു വന്നുകൂടാവുന്നതു്. മാത്രമല്ല ഇതുരാജ്യത്തിന്റെ പുരോഗതിയുടേയും അഭിവൃദ്ധിയുടേയും ഉൻമൂലനാശത്തിനു കാരണമാവുകയും ചെയ്യുന്നതുകൊണ്ടു് ഈ ബിൽ സെലക്ട് കമ്മറിക്കു് അയക്കുന്നതിനെ ഞാൻ എതിർക്കുന്നു.

Panel Chairman: That will be taken into consideration after the discussion on this Bill is over.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I am very glad this Bill has been introduced as early as Karkadagam by the then Cabinet. That Cabinet which had the name of being a Cabinet working, not only working for, but installed there and therefore working on the side of one Section of the Industrial world of Cochin namely the labourer. In these observations, Sir, I am only giving the gist of various responsible statements that appeared in the Press of the State belonging to the category earlier described by the Constitutional Adviser in connection with the other Bill for their responsibility. They had described the Cabinet which was responsible for the introduction of this Bill like that. Now, Sir, the earliest performance of that Cabinet in the industrial world and to help that particular section, namely labour was to come forward within a few days of their being installed, rather months, the 24th of Chingam, installed in the early days of Vrischigam. The first performance of theirs to the benefit of the labourer as was laid down in this statement of Objects and Reasons was to come here before the House with the Standing Orders pertaining to industrial—ofcourse the exact name I do not remember. It was stated by my friend the then Minister for Food and Education of those days not the one who is absent to-day—of those days—he said that he is happy to be here on the very first occasion in which the Cabinet of those days was facing this House as the present Cabinet, its successor with all its bad legacies is facing this Council. This time also in Vrischigam with this difference that there was no no-confidence motion to be discussed on Friday. Now, Sir, though a legacy, but not a bad one of the predecessor passed on to the successor cabinet it must be gratifying to think that they will also be described by atleast one section of the Press that they are also on the side of labour, though the legacy is one left by the boasters on the side of labour on earlier days. Now, Sir, I am glad that this Bill, imperfect in its nature, objectionable in certain sections, improvable in certain others, certainly not objectionable and unimprovable as the one that was referred unhappily to the Select Committee, that is, the Rowlet Act, with these differing features that it is improvable; and therefore without going into the defects as they exist, the imperfections as they are seen, I submit, Sir, I am happy to render my support to the introduction provided the Government is sure to make the motion, when this motion is passed, to refer this Bill to a Select Committee composed of persons not on party grouping representations but on the consideration and that consideration alone of the capacity, the competency, the study and the willingness to work and read, if knowledge already there does not exist, select such men for that Select Committee. If the Government are sure that they are going to refer this Bill to a Select Committee in that qualified fashion, I can render my support. I made certain observations about the selection of members, because I am pained to make it. Perhaps it may be misconstrued as reflections on A or B—Hon'ble colleague of mine certainly not, far from that. But I was forced and compelled to make this observation from the work performed by certain committees which had been sitting not for months but for years of a good digit and certain other committees which on very important measures on vital matters the Verumpattom Tenants Act (Amendment) Bill, very many in number being referred to one and the same Select Committee which I think has not met for months together. The last meeting was, I believe, in Mithunam last or one month later. Yet other Committees Sir, the Tenancy Committee which had after long delay found its way to sign its report in sufficient to present it in the Karkadagam Session, that report has not seen the light of the day. So, it is that I was

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constrained to make this painful observation of the selection of persons to sit upon the Committee, more especially the President who should not be the Chairman—I mean more especially the Chairman of the Committee, who must be a person who can find time necessary for attention to this piece of responsibility unlike certain other chairman who are seen to be a jack of all trades and therefore at least not finding time. Let this not be a Committee of that sort because it affects the industrial world. It is almost on flames because of want of imagination on the part of the present Cabinet as also its predecessor cabinet. That is the situation of the Industrial world. Though there is not much of that substance in Cochin, still with what there is, in the industrial world, it is on flames by the irresponsible working of certain sections of people and also by the greed for gain on the side of the employer. Of course my reference is not directed to the whole world of industrialdom. There are good sections, both of labour and employer in Cochin. But we have more of the undesirable variety flamed up on political grounds on party reasons which irresponsibility causing them unwillingly to resort to things whose inevitable result is the effecting of the stomach, in their case not so bulging as mine. That is the position. For these reasons, I submit, Sir, that this Bill, it will be referred to a Select Committee in the selection of Hon'ble members to sit on the Committee, these things will be borne in mind; and if that Select Committee will be ordered—of course it is not desirable to use that word—to submit its report in the shortest time absolutely necessary to go into the matter in all its ramifications, so that, the report when presented may be something which will be acceptable if possible. I have finished.

Mr. P. Govinda Menon *(Ernakulam)*: We have no objection. The Bill must become law very soon.

Panel Chairman: The Motion before the House is that the Cochin Industrial Disputes Bill be read in Council.

Motion put and carried.

Secretary to the Council: The title of the Bill is the Cochin Industrial Disputes Bill.

Mr. P. Raman Menon *(Advocate-General)*: I move that the Bill be referred to a Select Committee consisting of—

1. The Mover. (Minister for Food and Education).
2. The Advocate-General.
3. Mr. P. Govinda Menon.
4. Mr. P. K. Dewer.
5. „ C. Sankara Menon
6. „ M. O. Thomakutty.

and 7. „ P. Kumaran Ezhuthassan.

Rao Bahadur T. K. Nayar *(Prime Minister)*: I second it.

Mr. M. O. Thomakutty *(Commerce and Industry)*: I would suggest the name of Mr. Koder and Dr. S. S. Rao.

Mr. P. Kumaran Ezhuthassan *(Vadakkanheri)*: I would suggest the name of Hon'ble Member from Kattoor may also be added.

Mr. P. Govinda Menon *(Ernakulam)*: I suggest the name of Mr. P. T. Jacob also.

Mr. Panel Chairman: The motion before the House is that the Cochin Industrial Disputes Bill be referred to a Select Committee consisting of.—

1. The Minister for Food and Education.
2. The Advocate-General.
3. Mr. P. Govinda Menon.
4. „ P. K. Dewer.
5. „ C. Sankara Menon.
6. „ M. O. Thomakutty.
7. „ P. Kumaran Ezhuthassan.
8. „ S. S. Koder.
9. Dr. S. S. Rao.
10. Mr. P. Achutha Menon.
11. „ P. T. Jacob.

Motion put and carried

Panel Chairman: The Hon'ble Minister for Food and Education will be the Chairman of the Committee and the Committee is to submit its report within 3 months.

The House rose for the day at 5-5 p.m.

N. I. OUSEPH
Secretary

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APPENDIX I

The Cochin Industrial Disputes Bill

WHEREAS it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I

Preliminary

1. (1) *Short title, extent and commencement.*—This Act may be called the Cochin Industrial Disputes Act,.....of 112..

(2) It extends to the whole of Cochin State.

(3) It shall come into force on such date as Government may by notification in the Cochin Government Gazette appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context.—

(*a*) "award" means an interim or final determination by an Industrial Tribunal of any industrial dispute or of any question relating thereto;

(*b*) "Board" means a Board of Counciliation constituted under this Act;

(*c*) "conciliation officer" means a conciliation officer appointed under this Act;

(*d*) "concilition proceeding" means any proceeding held by a concilition officer or Board under this Act;

(*e*) "Court" means a Court of Inquiry constituted under this Act;

(*f*) "employer" means—

(*i*) in relation to any industry carried on by or under the authority of any department of Government the authority prescribed in this behalf or, where no authority is prescribed, the head of the department;

(*ii*) in relation to an industry carried by or on behalf of a local authority, the chief executive officer of that authority;

(*g*) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute referred to such Board, Court or Tribunal or with any industry directly affected by such dispute;

(*h*) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service employment, handicraft, or industrial occupation or avocation of workmen;

(*i*) "industrial dispute" means any dispute or difference between employers, and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

(*j*) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;

(*k*) "prescribed" means prescribed by rules made under this Act;

(*l*) "public utility service" means—

(*i*) any railway service;

(*ii*) any section of an industrial establishment on the working of which the safety of the establishment or the workmen employed therein depends;

(*iii*) any postal, telegraph or telephone service:

(*iv*) any industry which supplies power, light or water to the public;

(*v*) any system of public conservancy or sanitation;

(*vi*) any industry specified in the Schedule which Government may, if satisfied that public emergency or public interest so requires, by notification in the Cochin Government Gazette declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification:

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time if in the opinion of Government public emergency or public interest requires such extension;

(*m*) "railway company" means a railway company as defined in section 2 of the Cochin Railways Act, XI of 1111;

(*n*) "settlement" means a settlement arrived at in the course of a conciliation proceeding;

(*o*) "strike" means a cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal, or a refusal under a common understanding of any

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number of persons who are or have been so employed to continue to work or to accept employment;

(*p*) "Tribunal" means an Industrial Tribunal constituted under this Act;

(*q*) "workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute; but does not include any person employed in the Cochin State Forces.

CHAPTER II

Authorities under the Act

3. *Works Committee.* (1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their Trade Unions; if any, registered under the Cochin Trade Unions Act III of 1112.

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

4. *Conciliation officers.* (1) Government may, by notification in the Cochin Government Gazette, appoint such number of persons as they think fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

5. *Boards of Conciliation.* (1) Government may as occasion arises by notification in the Cochin Government Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members as Government think fit.

(3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, Government shall appoint such persons as they think fit to represent that party.

(4) A Board, having the prescribed quorum, may act not-withstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that if Government notify the Board that the services of the chairman or of any other member, have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

6. *Courts of Inquiry.*—(1) Government may as occasion arises by notification in the Cochin Government Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that, if Government notify the Court that the services of the chairman have ceased to be available, the Court shall not act until a new Chairman has been appointed.

7. *Industrial Tribunals.*—(1) Government may constitute one or more Industrial Tribunals for the adjudication of industrial disputes in accordance with the provisions of this Act.

(2) A Tribunal shall consist of such number of members as Government think fit. Where the Tribunal consists of two or more members, one of them shall be appointed as the chairman.

(3) Every member of the Tribunal shall be an independent person—

(*a*) who is or has been a Judge of the High Court or a District Judge, or

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(*b*) is qualified for appointment as a Judge of the High Court:

Provided that the appointment to a Tribunal of any person not qualified under clause (*a*) shall be made in consultation with the High Court.

8. *Filling of vacancies.*—(1) If the services of the chairman of a Board or of the chairman or other member of a Court or Tribunal cease to be available at any time, Government shall, in the case of a chairman, and may in the case of any other member, appoint another independent person to fill the vacancy, and the proceedings shall be continued before the Board, Court or Tribunal so reconstituted.

(2) Where a Court or Tribunal consists of one person only and his services cease to be available Government shall oppoint another independent person in his place, and the proceedings shall be continued before the person so appointed.

(3) Where the services of any member of a Board other than the Chairman have ceased to be available, Government shall appoint in the manner specified in sub-section (3) of section 5 another person to take his place, and the proceedings shall be continued before the Board so reconstituted.

9. *Finalty of orders constituting a Board, Court or Tribunal.*—No order of Government appointing any person as a member of a Board, Court or Tribunal shall be called in question in any manner.

CHAPTER III

Reference of Disputes to Boards, Courts or Tribunals

10. *Reference of disputes to Boards, Courts or Tribunals.*—(1) If any industrial dispute exists or is apprehended, Government may, by order in writing,—

(*a*) refer the dispute to a Board for promoting a settlement thereof; or

(*b*) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or

(*c*) refer the dispute to a Tribunal for adjudication:

Provided that where the dispute relates to a public utility service and a notice under section 22 has been given, Government shall, unless they consider that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

(2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Cour. or Tribunal, Government, if satisfied that the persons applying represent the majority of each party, shall mak the reference accordingly.

(3) Where an industrial dispute has been referred to a Board or Tribunal under this section, Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

CHAPTER IV

Procedure, Powers and Duties of Authorities

11. *Procedure and powers of conciliation officers, Boards, Courts and Tribunals.*—(1) Conciliation officers, Boards, Courts and Tribunals, shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

(2) A conciliation officer or a member of a Board, Court or Tribunal may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every Board, Court and Tribunal shall have the same powers as are vested in a Civil Court under the Cochin Code of Civil Procedure, Act XXIX of 1111, when trying a suit, in respect of the following matters, namely:—

(*a*) enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents and material objects;

(*c*) issuing commissions for the examination of witnesses; and

(*d*) in respect of such other matters as may be prescribed;

and every inquiry or investigation by a Board, Court or Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 179 and 214 of the Cochin Penal Code.

(4) A conciliation officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute.

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(5) With the consent of all parties to the dispute, a Court or Tribunal may, if it so thinks fit, appoint one or more persons as assessors to advise it in the proceedings.

(6) Every conciliation officer and every member of a Board, Court or Tribunal shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code.

(7) Every Board, Court or Tribunal shall be deemed to be a court subordinate to the High Court for the purposes of the Cochin Contempt of Courts Act, XXXII of 1111.

12. *Duties of conciliation officers.*—(1) Where any industrial dispute exists or is apprehended the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall, hold conciliation proceedings in the prescribed manner.

(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to Government together with a memorandum of the settlment signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), Government are satisfied that there is a case for reference to a Board or Tribunal, they may make such reference. Where Government do no make such a reference they shall record and communicate to the parties concerned their reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the date of the commencement of the conciliation proceedings or within such shorter period as may be fixed by Government.

13. *Duties of Boards.*—(1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all mattters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, Government do not make a reference to a Tribunal under section 10, it shal l record and communicate to the parties concerned their reasons therefor.

(5) The Board shall submit its report under this section within two months of the date of the notice under section 22 or within such in such shorter period as may be fixed by the Government.

Provided that Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate:

Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

14. *Duties of courts*—A Court shall inquire into the matters referred to it and report thereon to Government ordinarily within a period of six months from the commencement of its inquiry.

15. *Duties of Tribunals*—(1) Where an industrial dispute has been referered to a Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as practicable on the conclusion thereof, submit its award to Government.

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(2) On receipt of such award, Government shall by order in writing declare the award to be binding.

Provided that where Government are a party to the dispute and in their opinion it would be inexpedient on public grounds to give effect to the whole or any part of the award, they shall on the first available opportunity lay the award together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Council and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the award; and the Legislative Council may, by its resolution, confirm, modify or reject the award.

(3) On the passing of a resolution under the proviso to sub-section (2), unless the award is rejected thereby, Government shall, by order in writing declare the award as confirmed or modified by the resolution as the case may be, to be binding.

(4) Save as provided in the proviso to sub-section (3) of section 19, an award declared to be binding under this section shall not be called in question in any manner.

16. *Form of report or award*—The report of a Board or Court and the award of a Tribunal shall be in writing and and shall be signed by all the members of the Board, Court, or Tribunal, as the case may be:

Provided that nothing in this section shall be deemed to prevent any member of the Board Court or Tribunal from recording a minute of dissent from a report or award or from any recommendation made therein.

17. *Publication of reports and awards*—The report of a Board or Court and the award of a Tribunal, together with any minute of dissent recorded therewith, shall, within a period of one month from the date of its receipt by Government, be published in such manner as they think fit.

18. *Persons on whom settlements and awards are binding*—A settlement arrived at in the course of conciliation proceedings under this Act or an award which is declared by Goveranment to be binding under sub-section (2) of section 15 shall be binding on—

(*a*) all parties to the industrial dispute;

(*b*) all other parties summoned to appear in the proceedings as parties to the dispute unless the Board or Triburnal, as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (*a*) or (*b*) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(*d*) where a party referred to in claue (*a*) or (*b*) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

19. *Period of operation of settlements and awards.*—(1) A settlement arrived at in the course of a conciliation proceeding under this Act shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(2) Such settlement shall be binding for such period as is agreed upon by the parties and if no such period is agreed upon, for a period of six months and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(3) An award declared by Government under section 15 to be binding shall come into operation on such date as may be specified by Government and shall remain in operation for such period, not exceeding one year, as may be fixed by Government:

Provided that if, of their own motion or on the application of any party bound by the award, Government consider that there has been a material change in the circumstances on which the award was based, they may refer the award to a Tribunal for a decision whether or not the award should by reason of such change cease to be in operation before the expiry of the period so fixed, and the period of operation of the award shall be determined by the decision of the Tribunal on such reference.

20. *Commencement and conclusion of proceedings.*—(1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the date of the order referring the dispute to a Board, as the case may be.

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(2) A conciliation proceeding shall be deemed to have concluded—

(*a*) where a settlement is arrived at or when a memorandum of the settlement is signed by the parties to the dispute;

(*b*) where no settlement is arrived at, when the report of the conciliation officer is received by Government or when the report of the Board is published under section 17, as the case may be; or

(*c*) when a reference is made to a Court or Tribunal under section 10 during the pendency of conciliation proceedings.

(3) Proceedings before a Tribunal shall be deemed to have commenced on the date of the reference of a dispute for adjudication and such proceedings shall be deemed to have concluded when the award is published by Government under section 17, or where an award has been laid before the Legislative Council under the proviso to sub-section (2) of section 15 when the resolution of the Legislative Council thereon is passed.

21. *Certain matters to be kept confidential.*—There shall not be included in any report or award under this Act any information obtained by a conciliation officer, Board, Court or Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such officer, Board, Court or Tribunal, if the trade union, person, firm or company, in question has made a request in writing to the conciliation officer, Board, Court or Tribunal, as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer or any individual member of the Board, Court or Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the Secretary of the trade union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 179 of the Cochin Penal Code.

CHAPTER V

Strikes and Lock-outs

22. *Prohibition of strikes and lock-outs.*—(1) No person employed in a public utility service shall go on strike in breach of contract—

(*a*) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(*b*) within fourteen days of giving such notice; or

(*c*) before the expiry of the date of strike specified in any such notice as aforesaid; or

(*d*) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on a public utility service shall lock out any of his workmen—

(*a*) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or

(*b*) within fourteen days of giving such notice; or

(*c*) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(*d*) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to Government or to such authority as Government may prescribe the number of such notices received or given on that day.

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23. *General prohibition of strikes and lock-outs.*—(1) No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out—

(*a*) during the pendency of conciliation proceedings before a Board and seven days after the coclusion of such proceedings;

(*b*) during the pendency of proceedings before a Tribunal and two months after the conclusion of such proceedings; or

(*c*) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

24. *Illegal strikes and lock-outs.*—(1) A strike or a lock-out shall be illegal if—

(*i*) it is commenced or declared in contravention ef section 22 or section 23; or

(*ii*) it is continued in contravention of an order made under sub-section (3) of section 10.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, or Tribunal, the con inuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

25. *Prohibition of financial aid to illegal strikes and lock-outs.*—No person shall knowingly expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

CHAPTER VI
Penalties

26. *Penalty for illegal strikes and lock-outs.*—(1) Any workman who commences, continues or otherwise acts in furtherance of a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees or with both.

27. *Penalty for instigation, etc.*—Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or look-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

28. *Penalty for giving financial aid to illegal strikes and lock-outs.*—Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

29. *Penalty for breach of settlement or award.*—If any person commits a breach of any term of any settlement or award which is binding on him under this Act, he shall on his first conviction therefor be punishable with fine which may extend to two hundred rupees and in the event of a second or subsequent conviction, with fine which may extend to five hundred rupees.

30. *Penalty for disclosing confidential information.*—Any person who wilfully discloses any such information as is referred to in section 21 in contravention of the provisions of that section shall, on complaint made by or an behalf of the trade union or individual business affected be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

31. *Penalty for other offences.*—(1) An employer who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

CHAPTER VII
Miscellaneous

32. *Offence by companies.*—Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not)

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every director, manager, Secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

33. *Conditions of service, etc., to remain unchanged during pendency of proceeding.*—(1) No employer shall during the pendency of any conciliation proceedings of proceedings before a Tribunal, in respect of any industrial dispute, alter to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings nor save with the express permission in writing of the conciliation officer Board or Tribunal, as the case may be, shall he during the pendency of such proceedings, discharge, dismiss, or otherwise punish any such workmen, except for misconduct not connected with the dispute.

(2) If Government are satisfied on the report or a Board, Court of Tribunal that any workman has been discharged or dismissed by the employer during the pendency of the proceedings before the Board, Court or Tribunal, as the case may be, in contravention of sub-section (1) or without reasonable cause within six months immediately preceding the date on which the industrial dispute has been referred for settlement, inquiry or adjudication, they may by order direct such employer within such time and subject to such terms and conditions as they may deem fit to impose to reinstate the workman so discharged or dismissed.

(3) If, in the opinion of Government it is necessary or expedient so to do, Government may, in relation to any industrial dispute, by order direct employers, workmen or both to observe for such period, as may be specified in the order such terms and conditions of employment as may be determined in accordance with the order.

(4) When an industrial dispute has been referred for settlement, inquiry or adjudication no employer shall, pending settlement of the industrial dispute or until orders are passed on the award under sub-section (2) of section 15 or during the period on which the settlement or award binding on him under the provisions of this Act close down temporarily or otherwise the industry without obtaining the previous sanction of Government and except on such terms and conditions as Government may deem fit to impose.

34. *Cognizance of offences.*—(1) No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of Government.

(2) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

35. (1) *Protection of persons.*—No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act shall by reason of such refusal or by reason of any action taken by him under this section be subject to explusion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect; either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section and in any such proceedings the Civil Court may in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that court thinks fit.

36. (1) *Representation of parties.*—A workmen who is a party to an industrial dispute shall be entitled to be represented in any proceedings uner this Act by an Officer of a registered trade union and any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceedings, by an officer of an association of employers.

(2) No party to an industrial dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act.

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceedings before a Court or Tribunal.

37. *Protection of action taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

38. *Power to make rules.*—(1) Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

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(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely.—

(*a*) the powers and procedure of conciliation officers, Boards, Courts and Tribunals including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quorum and the manner of submission of reports and awards;

(*b*) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such Committees in the discharge of their duties;

(*c*) the allowances admissible to members of Courts, Boards, Tribunals and to assessors and witnesses;

(*d*) the ministerial establishment which may be allotted to a Court, Board or Tribunal and the salaries and allowances payable to members of such establishments;

(*e*) the manner in which and the persons by and to whom notice of strike or lock-out may be given and the manner in which such noticee shall be communicated;

(*f*) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court or Tribunal;

(*g*) any other matter which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

39. *Delegation of power.*—Government may by order direct that their power under section 3 shall in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by any officer or authority subordinate to Government.

40. *Repeal.*—The Cochin Trade Disputes Act, LXVI of 1112, is hereby repealed.

THE SCHEDULE

Industries which may be declared to be public utility services under sub-clause (vi) of clause (1) of section 2

1. Transport (other than railways) for the carriage of passengers or goods, by land, water or air.
2. Coal.
3. Cotton textiles.
4. Foodstuffs.
5. Iron and steel.

Statement of Objects and Reasons

Experience of the working of the Cochin Trade Disputes Act, LXVI of 1112, has revealed that its main defect is that while restraints have been imposed on the rights of strike and look-out in public utility services, no provision has been made to render the proceedings institutable under the Act for the settlement of an industrial dispute either by reference to a Board of Concilation or to a Court of Inquiry conclusive and binding on the parties to the dispute. This defect was overcome during the War by empowering under rule 81A of the Defence of India Rules as made applicable to Cochin by Proclamation, VIII of 1115, Government to refer industrial disputes to Adjudicators and enforcing their awards. Proclamation, I of 1122 which was issued when the Defence of India Rules lapsed has enacted provisions analogous to those embodied in rule 81A. As industrial unrest is gaining momentum due to the stress of post-war industrial readjustment the need of a permanent legislation has become highly necessary. The Bill embodies the essential principle of rule 81A which has proved generally acceptable to both the employers and workmen, retaining intact for the most part provisions of the Trade Disputes Act, LXVI of 1112.

The two institutions for the prevention and settlement of industrial disputes provided for in the Bill are the Works Committees consisting of representatives of employers and workmen and industrial tribunals consisting of one or more members possessing qualifications ordinarily required for appointment as Judges of the High Court. The Bill also seeks to reorient the administration of the conciliation machinery provided in the Trade Disputes Act. Conciliation will be compulsory in all disputes in public utility services and optional in the case of other industrial establishments. With a view to expedite conciliation proceedings, time limits have been prescribed for conclusion thereof.

Another important new feature of the Bill relates to the prohibition of strike and lock-out during the pendency of conciliation and adjudication proceedings, of settlements referred to in

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the course of conciliation proceedings and of awards of industrial tribunals declared binding by Government. The Bill also empowers Government, if emergency requires, to declare an industry to be a public utility service. The Bill closely follows the Industrial Disputes Act, XIV of 1947 of British India, except for the changes made in clauses (2), (3) and (4) of section 33 which provide for re-instatement of workmen discharged during the pendency or on the eve of proceedings taken under the law, the enforcement of Interim orders and the prohibition regarding closing down of industries pending adjudication, settlement or inquiry.

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